

STATE BOARD OF EQUALIZATION
BEFORE THE ADMINISTRATIVE JUDGE

IN RE:	Roger and Carol Ferguson)	
	See Attached Exhibit)	Davidson County
	Residential Property)	
	Tax Year 2005)	

INITIAL DECISION AND ORDER

Statement of the Case

For the purposes of writing this opinion I have consolidated these cases, for a list of the property descriptions and values see the attached Exhibit.

Appeals were filed on behalf by the properties owner with the State Board of Equalization on September 9, 2005.

These matters were reviewed by the undersigned administrative law judge pursuant to Tennessee Code Annotated (T.C.A.) §§ 67-5-1412, 67-5-1501 and 67-5-1505. The hearings were conducted on July 20, 2006, at the Davidson County Property Assessor's Office; present at the hearing were Carol Ferguson (Roger Ferguson is deceased) the taxpayer who represented herself and Mr. Jason Poling, Residential Appraiser, Division of Assessments for the Metro. Property Assessor.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject properties consist of several single family residences and duplexes located in Nashville, Tennessee.

The taxpayer contended that subject properties should be valued substantially lower than the Assessor's Office had them set; Mrs. Ferguson had property appraisals performed by Beck and Beck RE Appraisal, LLC.¹

The assessor contends that the properties are assessed correctly and should be valued at the values previously assessed by the County Board of Equalization.

In support of this position, the County Appraiser submitted three (3) comparable sales in each case that were properly adjusted for age, time, and size. The exhibits were introduced and are marked as exhibits and are part of the record in each of these causes.

¹ Mrs. Ferguson had paid Beck and Beck \$2300.00 to perform the appraisals for her, Mr. Robert Beck, Jr. was subpoenaed to appear and defend his work but he refused to honor the subpoena issued by the Executive Secretary, Kelsie Jones.

The presentation by the taxpayer shows that a lot of time and effort were put into preparing for this hearing. The Taxpayers exhibits show that she tried to make comparisons in the compilation but she did not make the correct adjustments. The germane issue is the value of the properties as of January 1, 2005, Mrs. Ferguson does not understand the principals of appraisal techniques.

The basis of valuation as stated in T.C.A. § 67-5-601(a) is that “[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values”

Since the taxpayer is appealing from the determination of the Davidson County Board of Equalization, she has the burden of proof. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Control Board*, 620 S.W. 2d 515 (Tenn.App. 1981)

In the present case the taxpayer represented the interest of four separate properties; she presented no adjusted sales as proof for her arguments. Mrs. Ferguson contends that the properties are rental properties in low income neighbors, that the properties need work and that she admittedly charges below “market rent” so that she can keep the properties occupied. Mr. Poling and Mr. Donovan, on behalf of the Assessor’s Office, both presented comparable sales data. After having reviewed all the evidence in this case; the administrative judge finds that the taxpayer has not sustained her burden and that subject properties should remain at the previously assessed values. Mrs. Ferguson stated that she is a “poor widow lady doing this on my [her] own”. Mrs. Ferguson could not understand why the County Board did not go along with her values and lower the prices.

The administrative judge finds that the taxpayer’s equalization argument must be rejected. The administrative judge finds that the April 10, 1984, decision of the State Board of Equalization in *Laurel Hills Apartments, et. al.* (Davidson County, Tax Years 1981 and 1982), holds that “as a matter of law property in Tennessee is required to be valued and equalized according to the “Market Value Theory’.” As stated by the Board, the Market Value Theory requires that property “be appraised annually at full market value and **equalized by application of the appropriate appraisal ratio . . .**” *Id.* at 1.(emphasis added)

The Assessment Appeals Commission elaborated upon the concept of equalization in *Franklin D. & Mildred J. Herndon* (Montgomery County, Tax Years 1989 and 1990) (June 24, 1991), when it rejected the taxpayer’s equalization argument reasoning in pertinent part as follows:

In contending the entire property should be appraised at no more than \$60,000 for 1989 and 1990, the taxpayer is attempting to compare his appraisal with others. There are two flaws in this approach. First, while the taxpayer is certainly

entitled to be appraised at no greater percentage of value than other taxpayers in Montgomery County on the basis of equalization, the assessor's proof establishes that this property is not appraised at any higher percentage of value than the level prevailing in Montgomery County for 1989 and 1990. That the taxpayer can find other properties which are more under appraised than average **does not entitle him to similar treatment.** Secondly, as was the case before the administrative judge, the taxpayer has produced an impressive number of "comparables" but has not **adequately indicated how the properties compare to his own in all relevant respects.** . . . (emphasis added)

Final Decision and Order at 2. See also *Earl and Edith LaFollette*, (Sevier County, Tax Years 1989 and 1990) (June 26, 1991), wherein the Commission rejected the taxpayer's equalization argument reasoning that "[t]he evidence of other tax-appraised values might be relevant if it indicated that properties throughout the county were under appraised . . ." Final Decision and Order at 3.

With respect to the issue of market value, the administrative judge finds that Mrs. Ferguson simply introduced insufficient evidence to affirmatively establish the market value of subject properties as of January 1, 2005, the relevant assessment date pursuant to Tenn. Code Ann. § 67-5-504(a).

The administrative judge finds that rather than averaging comparable sales, comparables must be adjusted. As explained by the Assessment Appeals Commission in *E.B. Kissell, Jr.* (Shelby County, Tax Years 1991 and 1992) as follows:

The best evidence of the present value of a residential property is generally sales of properties comparable to the subject, comparable in features relevant to value. Perfect comparability is not required, but relevant differences should be explained and accounted for by reasonable adjustments. If evidence of a sale is presented without the required analysis of comparability, it is difficult or impossible for us to use the sale as an indicator of value. . . . Final Decision and Order at 2.

In analyzing the arguments of the Taxpayer, the administrative judge must also look to the applicable and acceptable standards in the industry when comparing the sales of similar properties as the Taxpayer did here.

The administrative judge finds that the procedure normally utilized in the sales comparison approach has been summarized in one authoritative text as follows:

To apply the sales comparison approach, an appraiser follows a **systematic procedure.**

1. Research the competitive market for information on sales transactions, listings, and offers to purchase or sell involving properties that are similar to the subject property in terms of characteristics such as property type, date of sale, size, physical condition, location, and land use constraints. The goal is to find a set of comparable sales as similar as possible to the subject property.
2. Verify the information by confirming that the data obtained is factually accurate and that the transactions reflect arm's-length, market considerations. Verification may elicit additional information about the market.
3. Select relevant units of comparison (e.g., price per acre, price per square foot, price per front foot) and develop a comparative analysis for each unit.

The goal here is to define and identify a unit of comparison that explains market behavior.

4. Look for differences between the comparable sale properties and the subject property using the elements of comparison. Then *adjust the price of each sale property to reflect how it differs from the subject property or eliminate that property as a comparable*. This step typically involves using the most comparable sale properties and then adjusting for any remaining differences.

Reconcile the various value indications produced from the analysis of comparables into a single value indication or a range of values. [Emphasis supplied] Appraisal Institute, *The Appraisal of Real Estate* at 422 (12th ed. 2001). Andrew B. & Majorie S. Kjellin, (Shelby County, 2005)

ORDER

It is therefore ORDERED that the values and assessments adopted for tax year 2005 for the subject properties be pursuant to the attached exhibit. It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or

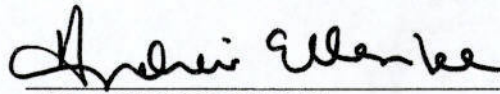
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or

3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the

entry of the initial decision and order if no party has appealed.

ENTERED this 9th day of August, 2006.

A handwritten signature in black ink, appearing to read "Andrei Ellen Lee", written over a horizontal line.

ANDREI ELLEN LEE
ADMINISTRATIVE JUDGE
STATE BOARD OF EQUALIZATION

cc: Mrs. Carol Ferguson, Taxpayer
JoAnn North, Property Assessor Davidson County

Exhibit

Taxpayer : Carol Ferguson

<u>Location</u>	<u>Parcel I.D.</u>	<u>Land Value (\$)</u>	<u>Improvement Value (\$)</u>	<u>Total Value (\$)</u>	<u>Assessment (\$)</u>
4400 Georgia	091-12-0 095.00	\$22,500	\$46,500	\$69,000	\$17,250
4410 Georgia	091-12-0 093.00	10,800	119,500	130,300	52,120
4402 Georgia	091-12-0 094.00	18,000	67,900	80,900	20,225
2918 Glenmeade	072-11-0 054.00	18,000	70,000	88,000	22,000